

FILED DEC 15 1988

I certify that the attached is a true and
correct copy of HB# 214, which
was filed of record on 12-15-88

1989 JAN 25 PM 1:15

and referred to the committee on:

HOUSE OF REPRESENTATIVES

Natural Resources

Betty Murray
Chief Clerk of the House

By Robinson

H. B. No. 214

A BILL TO BE ENTITLED

AN ACT

relating to the authority of the Plum Creek Conservation District
to regulate groundwater.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 2, Chapter 126, Acts of the 55th
Legislature, Regular Session, 1957, is amended to read as follows:

Sec. 2. POWERS OF DISTRICT [~~DISTRICTS--POWERS~~]. (a) The
District shall have and exercise and shall be vested with all the
rights, powers, privileges and authority granted water control and
improvement districts by Chapter 51, Water Code [~~3A--Title--128--of
the--Revised--Civil--Statutes--of--Texas,--1925,--and--all--amendments
thereto--heretofore--or--hereafter--enacted~~], and all other laws of the
State of Texas relating to water control and improvement districts,
(all such laws being hereinafter referred to as "General Laws").
All such General Laws are hereby incorporated by this reference to
the same effect as if set out in full in this Act. To the extent
that the provisions of any such General Laws may be in conflict or
inconsistent with the provisions of this Act, the provisions of
this Act shall prevail. Without limitation of the generality of
the foregoing the District herein created shall be and it is hereby
empowered to control, conserve, protect, distribute and utilize the
storm and flood waters and unappropriated flow of Plum Creek and
its tributaries for all useful purposes permitted by law; also to
carry out flood prevention measures with respect to Plum Creek and

1 its tributaries to prevent or aid in preventing damage to the lands
2 of the district and the soil and fertility thereof, to cooperate
3 with all other districts, departments or agencies of the state
4 government, or departments and agencies of the United States
5 government, and to receive and accept technical and financial
6 assistance therefrom in the accomplishment of said purposes. The
7 said District is further authorized and empowered to purchase,
8 construct, or in any other lawful manner to acquire, provide and
9 develop all works, facilities and improvements necessary or useful
10 in fulfilling the purposes of the District or any of them.

11 (b) The District may exercise the powers granted and shall
12 exercise the duties imposed under Chapter 52, Water Code, for the
13 preservation, conservation, protection, recharge, and prevention of
14 waste and pollution of the underground water of the District.

15 (c) The District may not place meters on private wells.

16 SECTION 2. The importance of this legislation and the
17 crowded condition of the calendars in both houses create an
18 emergency and an imperative public necessity that the
19 constitutional rule requiring bills to be read on three several
20 days in each house be suspended, and this rule is hereby suspended,
21 and that this Act take effect and be in force from and after its
22 passage, and it is so enacted.

HOUSE COMMITTEE REPORT

CC APR 20 AM 9:23
HOUSE OF REPRESENTATIVES

1st Printing

By Robinson

H.B. No. 214

Substitute the following for H.B. No. 214:

By Yost

C.S.H.B. No. 214

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9 develop all works, facilities and improvements necessary or useful
10 in fulfilling the purposes of the District or any of them.

11 (b) On approval of the qualified voters of the District at
12 an election called and held for that purpose, the District may
13 exercise the powers granted and shall exercise the duties imposed
14 under Chapter 52, Water Code, for the preservation, conservation,
15 protection, recharge, and prevention of waste and pollution of the
16 underground water of the District, except in those areas of the
17 District that were part of the Barton Springs-Edwards Aquifer
18 Conservation District or the Edwards Underground Water District on
19 January 1, 1989.

20 (c) The Commissioners Court of Caldwell County, on receiving
21 a petition signed by at least 50 registered voters of the District,
22 shall call and hold an election in the District to determine
23 whether the District will assume the powers and exercise the duties
24 provided by Chapter 52, Water Code. At the election, the ballots
25 shall be printed to permit voting for or against the
26 proposition: "The assumption by the Plum Creek Conservation
27 District of the powers and duties of an underground water

1 conservation district." The Commissioners Court of Caldwell County
 2 shall canvass the votes, and if a majority of the qualified voters
 3 of the District favor the proposition, the District may assume the
 4 powers and shall exercise the duties of an underground water
 5 conservation District under Chapter 52, Water Code, except as
 6 specifically provided by Subsection (d) of this section. If a
 7 majority of the qualified voters of the District do not approve the
 8 proposition, another election on that proposition may not be called
 9 by the Commissioners Court of Caldwell County before the first
 10 anniversary of the most recent election on that proposition.
 11 Except as provided by this subsection, the Election Code applies to
 12 an election under this subsection. Caldwell County shall pay the
 13 cost of any election held under this subsection.

14 (d) If the District is authorized by the voters to assume
 15 the powers and duties provided by Chapter 52, Water Code, Section
 16 52.351(b), Water Code, does not apply to the District.

17 SECTION 2. The importance of this legislation and the
 18 crowded condition of the calendars in both houses create an
 19 emergency and an imperative public necessity that the
 20 constitutional rule requiring bills to be read on three several
 21 days in each house be suspended, and this rule is hereby suspended,
 22 and that this Act take effect and be in force from and after its
 23 passage, and it is so enacted.

COMMITTEE REPORT

The Honorable Gib Lewis
Speaker of the House of Representatives

4-12-89
(date)

Sir:

We, your COMMITTEE ON NATURAL RESOURCES,

to whom was referred HB 214 have had the same under consideration and beg to report
(measure)
back with the recommendation that it

() do pass, without amendment.
() do pass, with amendment(s).
☒ do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested. () yes ☒ no An actuarial analysis was requested. () yes ☒ no

An author's fiscal statement was requested. ☒ yes () no

A criminal justice policy impact statement was prepared. () yes ☒ no

A water development policy impact statement was requested. () yes ☒ no

☒ The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars for placement on the () Local, ☒ Consent, or () Resolutions Calendar.

This measure () proposes new law. ☒ amends existing law.

House Sponsor of Senate Measure _____

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Smith, T., Ch.	X			
Willy, V.C.	X			
Collazo, C.B.O.				X
Culberson				X
Holzheuser	X			
Junell	X			
Swift	X			
Wentworth				X
Yost	X			

Total
6 aye
0 nay
0 present, not voting
3 absent

Fernald
CHAIRMAN
Deborah K. Wall
COMMITTEE COORDINATOR

BILL ANALYSIS

Background

At present the Plum Creek Conservation District has authority to regulate surface waters in the district; it is believed that it would be beneficial to the residents of the district to extend the district's authority to groundwater regulation as well.

Purpose of the Bill

To grant the Plum Creek Conservation District authority to regulate groundwater, and to put its surface water authority under Chapter 51, Water Code.

Section by Section Analysis

Section 1. Amends Section 2, Chapter 126, Acts of the 55th Legislature, Regular Session, 1957 to put the district's surface water authority under Chapter 52, Water Code, and to grant the district authority under Chapter 52, Water Code, to regulate groundwater, subject to voter approval.

Section 2. Emergency clause.

Rulemaking Authority

It is the opinion of this committee that this bill does not delegate rulemaking authority to any state agency, officer, department, or institution.

Comparison of Substitute to Original

The substitute bill clears up problems with overlap with the Barton Springs-Edwards Aquifer Conservation District and the Edwards Underground Water District. The substitute also provides for elections in the district to ratify the powers of the district.

Summary of Committee Action

HB 214 was considered in public hearing on March 1, 1989. Representative Robinson introduced her bill. Representative Junell offered a substitute for the bill. James Lipscomb and Edmond McCarthy, representing the Plum Creek Conservation District, testified in favor of the bill. John White, James Taylor and Morris Alexander did not testify, but wished the record to reflect their support of the bill. Allen Beinke, representing the Texas Water Commission, served as a resource witness on the bill. There were no witnesses against the bill. HB 214 was referred to subcommittee.

The subcommittee on HB 214 met in public hearing on April 10, 1989. There were no witness at this time. HB 214 was left pending in subcommittee.

The subcommittee on HB 214 met in formal meeting on April 11, 1989. The motion to adopt the substitute and report the bill favorably to the full committee carried with a vote of 2 ayes, 0 nays, 0 PNV, and 1 absent.

The 48-hour lay-out rule was suspended and the full committee considered HB 214 in public hearing on April 12. The motion to report the bill favorably, as substituted, to the consent calendar, carried with a vote of 6 ayes, 0 nays, 0 PNV, and 3 absent.



PHYLLIS ROBINSON
STATE REPRESENTATIVE
P.O. BOX 2910
AUSTIN, TEXAS 78769-2910
512-463-0674

The State of Texas
House of Representatives
Austin, Texas

DISTRICT 31:
CALDWELL, DEWITT
GOLIAD, GONZALES
JACKSON, LAVACA

January 30, 1989

The Hon. Terral Smith, Chairman
Committee on Natural Resources
House of Representatives
Reagan Bldg., Room 214

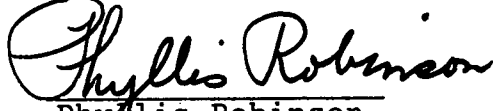
Re: Author's Fiscal Statement, House Bill 214 (relating to the authority of the Plum Creek Conservation District to regulate groundwater).

Sir,

In response to your request for an Author's Fiscal Statement on H.B. 214, I have determined the following:

1. COST TO STATE GOVERNMENT: Absolutely no fiscal implication is anticipated (pending further review by Legislative Budget Board).
2. COST TO CALDWELL AND HAYS COUNTY GOVERNMENT: No fiscal implication is anticipated. Any additional costs for the protection, conservation, and prevention of waste and pollution of the underground water of the District will be covered by existing tax revenues (\$ 0.0228 per \$100 valuation) and permits.

Please let me know if I can provide further information to you.


Phyllis Robinson

ADOPTED

as amended

MAY 5 1989

Chief Clerk
House of Representatives

By Robinson

H.B. No. 214

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By

C.S.H.B. No. 214

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District shall have and exercise and shall be vested with all the
rights, powers, privileges and authority granted water control
and improvement districts by Chapter 51, Water Code [3A, Title
128 of the Revised Civil Statutes of Texas, 1925, and all
amendments thereto heretofore or hereafter enacted], and all
other laws of the State of Texas relating to water control and
improvement districts, (all such laws being hereinafter referred
to as "General Laws"). All such General Laws are hereby
incorporated by this reference to the same effect as if set out
in full in this Act. To the extent that the provisions of any
such General Laws may be in conflict or inconsistent with the
provisions of this Act, the provisions of this Act shall prevail.
Without limitation of the generality of the foregoing the
District herein created shall be and it is hereby empowered to
control, conserve, protect, distribute and utilize the storm and
flood waters and unappropriated flow of Plum Creek and its

1 tributaries for all useful purposes permitted by law; also to
2 carry out flood prevention measures with respect to Plum Creek
3 and its tributaries to prevent or aid in preventing damage to the
4 lands of the district and the soil and fertility thereof, to
5 cooperate with the other districts, departments or agencies of
6 the state government, or departments and agencies of the United
7 States government, and to receive and accept technical and
8 financial assistance therefrom in the accomplishment of said
9 purposes. The said District is further authorized and empowered
10 to purchase, construct, or in any other lawful manner to acquire,
11 provide and develop all works, facilities and improvements
12 necessary or useful in fulfilling the purposes of the District or
13 any of them.

14 (b) On approval of the qualified voters of the District at
15 an election called and held for that purpose, the District may
16 exercise the powers granted and shall exercise the duties imposed
17 under Chapter 52, Water Code, for the preservation, conservation,
18 protection, recharge, and prevention of waste and pollution of
19 the underground water of the District, except in those areas of
20 the District that were part of the Barton Springs-Edwards Aquifer
21 Conservation District or the Edwards Underground Water District
22 on January 1, 1989.

23 (c) The Commissioners Court of Caldwell County, on receiving
24 a petition signed by at least 50 registered voters of the
25 District, shall call and hold an election in the District to
26 determine whether the District will assume the powers and
27 exercise the duties provided by Chapter 52, Water Code. At the

1 election, the ballots shall be printed to permit voting for or
2 against the proposition: "The assumption by the Plum Creek
3 Conservation District of the powers and duties of an underground
4 water conservation district." The Commissioners Court of
5 Caldwell County shall canvas the votes, and if a majority of the
6 qualified voters of the District favor the proposition, the
7 District may assume the powers and shall exercise the duties of
8 an underground water conservation District under Chapter 52,
9 Water Code, except as specifically provided by Subsection (d) of
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11 District do not approve the proposition, another election on that
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13 Caldwell County before the first anniversary of the most recent
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21 SECTION 2. The importance of this legislation and the
22 crowded condition of the calendars in both houses created an
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24 constitutional rule requiring bills to be read on three several
25 days in each house be suspended, and this rule is hereby
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27 after its passage, and it is so enacted.

ADOPTED

MAY 5 1989

Betty Messing
Chief Clerk
House of Representatives

OK-SH

Local + Consent
Committee
AMENDMENT NO. 1

BY Polumbo

1 Amend H.B. No. 214 by striking all below the enacting clause
2 and substituting the following:

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4 Legislature, Regular Session, 1957, is amended to read as follows:

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21 its tributaries for all useful purposes permitted by law; also to
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11 held under this subsection.

12 (d) If the District is authorized by the voters to assume
13 the powers and duties provided by Chapter 52, Water Code, the
14 District may annually levy taxes to pay the maintenance and
15 operating expenses in the area of the District for which authority
16 is granted under Subsection (b) of this section at a rate not to
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HOUSE ENGROSSMENT

By Robinson

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PHYLLIS ROBINSON
STATE REPRESENTATIVE
P.O. BOX 2910
AUSTIN, TEXAS 78769-2910
512-463-0674

The State of Texas
House of Representatives
Austin, Texas

DISTRICT 31:
CALDWELL, DEWITT
GOLIAD, GONZALES
JACKSON, LAVACA

January 30, 1989

The Hon. Terral Smith, Chairman
Committee on Natural Resources
House of Representatives
Reagan Bldg., Room 214

Re: Author's Fiscal Statement, House Bill 214 (relating to the authority of the Plum Creek Conservation District to regulate groundwater).

Sir,

In response to your request for an Author's Fiscal Statement on H.B. 214, I have determined the following:

1. COST TO STATE GOVERNMENT: Absolutely no fiscal implication is anticipated (pending further review by Legislative Budget Board).
2. COST TO CALDWELL AND HAYS COUNTY GOVERNMENT:
No fiscal implication is anticipated. Any additional costs for the protection, conservation, and prevention of waste and pollution of the underground water of the District will be covered by existing tax revenues (\$ 0.0228 per \$100 valuation) and permits.

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Phyllis Robinson

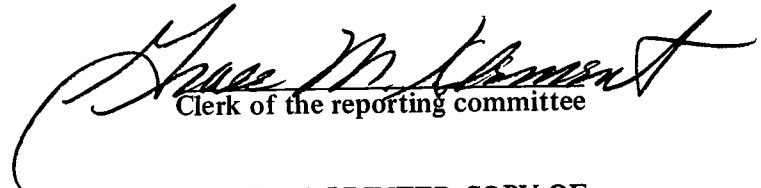
1

REQUEST FOR LOCAL & UNCONTESTED CALENDAR
PLACEMENT

Hon. Bill Sims, Chairman
Administration Committee

Sir:

Notice is hereby given that #B 2/4, by Robinson / Ambrose
was heard by the Committee on Natural Resources on 5-15, 1989,
and reported out with the recommendation that it be placed on the Local and Uncontested
Calendar.


Clerk of the reporting committee

IMPORTANT: A COPY OF THIS FORM MUST BE ATTACHED TO A PRINTED COPY OF
THE BILL OR RESOLUTION, WHICH ALONG WITH 14 ADDITIONAL COPIES OF THE
BILL OR RESOLUTION SHOULD BE DELIVERED TO THE OFFICE OF THE
COMMITTEE ON ADMINISTRATION, ROOM 419. PLEASE CALL 3-0350 IF YOU HAVE
ANY QUESTIONS. **DEADLINE FOR SUBMITTING BILLS FOR THE LOCAL CALENDAR**
IS 5:00 P.M. FRIDAY.

Paper clip the original to the bill; retain one copy for reporting committee files; deliver one copy to the bill sponsor.

SENATE FAVORABLE COMMITTEE REPORT

Lt. Governor William P. Hobby
President of the Senate

16
5-15-89
(date)/(time)

Sir:

We, your Committee on NATURAL RESOURCES to which was referred
HB 214 by Robinson have on 5-15, 1989, had the same
(measure) (sponsor) (hearing date)

under consideration and I am instructed to report it back with the recommendation (s) that it

☒ do pass and be printed

☐ do pass and be ordered not printed

☒ and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ☒ yes ☐ no

A revised fiscal note was requested. ☐ yes ☐ no

An actuarial analysis was requested. ☐ yes ☐ no

Considered by subcommittee. ☐ yes ☐ no

Senate Sponsor of House Measure Armbrister

The measure was reported from Committee by the following vote:

	YEA	NAY	PNV	ABSENT
Santiesteban, Chairman	<input checked="" type="checkbox"/>			
Lyon, Vice Chairman				<input checked="" type="checkbox"/>
Armbrister	<input checked="" type="checkbox"/>			
Bivins				<input checked="" type="checkbox"/>
Brown	<input checked="" type="checkbox"/>			
Carriker	<input checked="" type="checkbox"/>			
Montford	<input checked="" type="checkbox"/>			
Ratliff	<input checked="" type="checkbox"/>			
Sims	<input checked="" type="checkbox"/>			
Uribe				<input checked="" type="checkbox"/>
Zaffirini				<input checked="" type="checkbox"/>
TOTAL VOTES	7			4

Glenn M. Clement
COMMITTEE CLERK

[Signature]
CHAIRMAN

1 By: Robinson (Senate Sponsor - Armbrister) H.B. No. 214
2 (In the Senate - Received from the House May 8, 1989;
3 May 9, 1989, read first time and referred to Committee on Natural
4 Resources; May 16, 1989, reported favorably by the following vote:
5 Yeas 7, Nays 0; May 16, 1989, sent to printer.)

6 COMMITTEE VOTE

	Yea	Nay	PNV	Absent
7 Santiesteban	x			
8 Lyon				x
9 Armbrister	x			
10 Bivins				x
11 Brown	x			
12 Carriker	x			
13 Montford	x			
14 Ratliff	x			
15 Sims	x			
16 Uribe				x
17 Zaffirini				x

19 A BILL TO BE ENTITLED
20 AN ACT

21 relating to the authority of the Plum Creek Conservation District
22 to regulate groundwater.

23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

24 SECTION 1. Section 2, Chapter 126, Acts of the 55th
25 Legislature, Regular Session, 1957, is amended to read as follows:

26 Sec. 2. POWERS OF DISTRICT [~~DISTRICTS--POWERS~~]. (a) The
27 District shall have and exercise and shall be vested with all the
28 rights, powers, privileges and authority granted water control and
29 improvement districts by Chapter 51, Water Code [~~3A, Title 128 of~~
30 ~~the Revised Civil Statutes of Texas, 1925, and all amendments~~
31 ~~thereto heretofore or hereafter enacted~~], and all other laws of the
32 State of Texas relating to water control and improvement districts,
33 (all such laws being hereinafter referred to as "General Laws").
34 All such General Laws are hereby incorporated by this reference to
35 the same effect as if set out in full in this Act. To the extent
36 that the provisions of any such General Laws may be in conflict or
37 inconsistent with the provisions of this Act, the provisions of
38 this Act shall prevail. Without limitation of the generality of
39 the foregoing the District herein created shall be and it is hereby
40 empowered to control, conserve, protect, distribute and utilize the
41 storm and flood waters and unappropriated flow of Plum Creek and
42 its tributaries for all useful purposes permitted by law; also to
43 carry out flood prevention measures with respect to Plum Creek and
44 its tributaries to prevent or aid in preventing damage to the lands
45 of the district and the soil and fertility thereof, to cooperate
46 with all other districts, departments or agencies of the state
47 government, or departments and agencies of the United States
48 government, and to receive and accept technical and financial
49 assistance therefrom in the accomplishment of said purposes. The
50 said District is further authorized and empowered to purchase,
51 construct, or in any other lawful manner to acquire, provide and
52 develop all works, facilities and improvements necessary or useful
53 in fulfilling the purposes of the District or any of them.

54 (b) Except as specifically provided by this Act, on approval
55 of the qualified voters of the District at an election called and
56 held for that purpose, the District may exercise the powers granted
57 and shall exercise the duties imposed under Chapter 52, Water Code,
58 for the preservation, conservation, protection, recharge, and
59 prevention of waste and pollution of the underground water of the
60 District, except in those areas of the District that were part of
61 the Barton Springs-Edwards Aquifer Conservation District or the
62 Edwards Underground Water District on January 1, 1989.

63 (c) The Commissioners Court of Caldwell County, on receiving
64 a petition signed by at least 50 registered voters of the District,
65 shall call and hold an election in the District to determine
66 whether the District will assume the powers and exercise the duties

provided by Chapter 52, Water Code. At the election, the ballots shall be printed to permit voting for or against the proposition: "The assumption by the Plum Creek Conservation District of the powers and duties of an underground water conservation district." The Commissioners Court of Caldwell County shall canvass the votes, and if a majority of the qualified voters of the District favor the proposition, the District may assume the powers and shall exercise the duties of an underground water conservation District under Chapter 52, Water Code, except as specifically provided by Subsection (d) of this section. If a majority of the qualified voters of the District do not approve the proposition, another election on that proposition may not be called by the Commissioners Court of Caldwell County before the first anniversary of the most recent election on that proposition. Except as provided by this subsection, the Election Code applies to an election under this subsection. Caldwell County shall pay the cost of any election held under this subsection.

(d) If the District is authorized by the voters to assume the powers and duties provided by Chapter 52, Water Code, the District may annually levy taxes to pay the maintenance and operating expenses in the area of the District for which authority is granted under Subsection (b) of this section at a rate not to exceed three cents on each \$100 of assessed valuation.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

* * * * *

Austin, Texas
May 16, 1989

Hon. William P. Hobby
President of the Senate

Sir:

We, your Committee on Natural Resources to which was referred H.B. No. 214, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed.

Santiesteban, Chairman

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

May 10, 1989

TO: Honorable H. Tati Santiesteban, Chairman In Re: House Bill No. 214,
Committee on Natural Resources as engrossed
Senate Chamber By: Robinson
Austin, Texas

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 214, as engrossed (relating to the authority of the Plum Creek Conservation District to regulate groundwater) this office has determined the following:

No fiscal implication to the State is anticipated.

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the Senate as to its probable fiscal implication on units of local government.

Source: LBB Staff: JO, JWH, AL, SKM, CKM



PHYLLIS ROBINSON
STATE REPRESENTATIVE
P.O. BOX 2910
AUSTIN, TEXAS 78769-2910
512-463-0674

The State of Texas
House of Representatives
Austin, Texas

DISTRICT 31:
CALDWELL, DEWITT
GOLIAD, GONZALES
JACKSON, LAVACA

January 30, 1989

The Hon. Terral Smith, Chairman
Committee on Natural Resources
House of Representatives
Reagan Bldg., Room 214

Re: Author's Fiscal Statement, House Bill 214 (relating to
the authority of the Plum Creek Conservation District to
regulate groundwater).

Sir,

In response to your request for an Author's Fiscal Statement
on H.B. 214, I have determined the following:

1. **COST TO STATE GOVERNMENT:** Absolutely no fiscal
implication is anticipated (pending further review
by Legislative Budget Board).
2. **COST TO CALDWELL AND HAYS COUNTY GOVERNMENT:**
No fiscal implication is anticipated. Any
additional costs for the protection, conservation,
and prevention of waste and pollution of the
underground water of the District will covered by
existing tax revenues (\$ 0.0228 per \$100 valuation)
and permits.

Please let me know if I can provide further information to
you.


Phyllis Robinson

LETTER OF TRANSMITTAL
HOUSE OF REPRESENTATIVES
STATE OF TEXAS

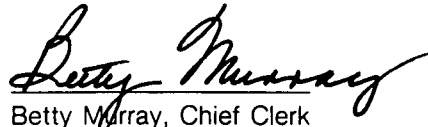
TO: The Honorable William P. Clements, Jr.
Governor of Texas

SUBJECT: A Bill Relating to a Conservation and Reclamation District

This is to transmit to you and the Texas Water Commission copies of House Bill No. 214, a bill relating to a conservation and reclamation district, and copies of the notice of intention to introduce the bill. One copy is for your files and one for you to forward to the Texas Water Commission, under Section 59(d), Article XVI, Constitution of the State of Texas.

FEB 8 1989

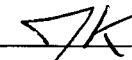
Date transmitted to
Governor's Office


Betty Murray, Chief Clerk
House of Representatives

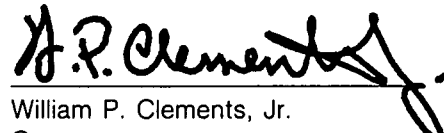
TO: Texas Water Commission

SUBJECT: A Bill Relating to a Conservation and Reclamation District

This is to forward to you a copy of House Bill No. _____, a bill relating to a conservation and reclamation district, and a copy of the notice of intention to introduce the bill.

FEB 10, 1989 

Date transmitted to
Texas Water Commission


William P. Clements, Jr.
Governor

TO: The Honorable Gibson D. "Gib" Lewis
Speaker of the House

The Honorable William P. Hobby
President of the Senate

The Honorable William P. Clements, Jr.
Governor of Texas

SUBJECT: A Bill Relating to a Conservation and Reclamation District

Attached are the recommendations of the Texas Water Commission on House Bill No. _____, in compliance with Section 59(d), Article XVI, Constitution of the State of Texas.



Allen Beinke
Executive Director

TEXAS WATER COMMISSION

B. J. Wynne, III, Chairman
Paul Hopkins, Commissioner
John O. Houchins, Commissioner



Allen Beinke, Executive Director
Michael E. Field, General Counsel
Brenda W. Foster, Chief Clerk

February 28, 1989

The Honorable William P. Clements, Jr.
Governor of Texas

The Honorable William P. Hobby
President of the Senate

The Honorable Gib Lewis
Speaker of the House of Representatives

Re: H.B. 214 - Proposed Amendments to the Act (Section 2, Chapter 126, Acts of the 55th Legislature, Regular Session, 1957) which created the Plum Creek Conservation District, in Caldwell, Hays, and Travis Counties.

Responsibility of the Texas Water Commission to submit a recommendation on legislation pursuant to Article XVI, Section 59(d), Texas Constitution

Gentlemen:


H.B. 214 was received by the Commission from the Governor of Texas on February 10, 1989. This bill amends the Act, referenced above, which created the Plum Creek Conservation District. The District, as created in 1957, has only the powers granted to a water control and improvement district as they were contained in Articles 7880-1 through 7880-153, V.A.T.S., prior to the codification of the Water Code in 1971.

The proposed amendment clarifies the district's powers by providing that the district shall have the powers of a water control and improvement district created

The Honorable William P. Clements, Jr.
The Honorable William P. Hobby
The Honorable Gib Lewis
Page 2
February 28, 1989

pursuant to Chapter 51, Water Code. The district is also given the powers of an underground water conservation district as provided by Chapter 52, Water Code, by the proposed amendments with an exception relating to the placing of meters on private wells. Please consult the attached enclosure for additional details.

Sincerely yours,



Allen P. Beinke
Executive Director

Enclosure

cc: Betty Murray, Chief Clerk, House of Representatives
Betty King, Secretary of the Senate
Representative Phyllis Robinson
Representative Terral Smith, Chairman, House Natural Resources Committee
Senator H. Tati Santiesteban, Chairman, Senate Natural Resources Committee

TEXAS WATER COMMISSION
COMMENTS RELATING TO THE
PLUM CREEK CONSERVATION DISTRICT

House Bill 214 clarifies the existing authority and increases the powers of the Plum Creek Conservation District to regulate ground water. This district was originally created in 1957 as a water control and improvement district and comprises the Plum Creek watershed, an area of about 250,000 acres, which is primarily located in Caldwell County as well as portions of Hays and Travis Counties. The district was originally formed under Section 2, Chapter 126, Acts of the 55th Legislature, Regular Session, 1957.

The district having been created prior to the adoption of the Water Code in 1971, H.B. 214 clarifies that the existing district has all of the rights, powers, privileges, and authority granted to water control and improvement districts (WCID) by Chapter 51, Water Code, as well as all other laws of the state relating to these districts. Additionally, the district may also exercise all the powers and duties imposed under Chapter 52, Water Code, which are applicable to an underground water conservation district (UWCD) except for the power to place meters on private wells. These added powers and authority makes this a combined WCID/UWCD.

Definite conflicts between the boundaries of this district and those of existing UWCDs are present. The Edwards Underground Water District and the Barton Springs - Edwards Aquifer Conservation District would both be affected since the northwest part of this district overlaps portions of both of those districts. The affected districts have been established for the preservation, conservation, protection, recharge, and prevention of waste and pollution of underground water in the Edwards (Balcones Fault Zone) aquifer. The proposed amendment will, in effect, therefore create a new UWCD over parts of two existing UWCDs, and should provide that the Chapter 52, Water Code, powers shall not apply within the areas of such existing UWCDs, to avoid conflicts of function and double taxation. The southeast one-third of the Plum Creek Conservation District also covers a portion of a large ground-water management area recently delineated by the Texas Water Commission which is applicable to the Carrizo-Wilcox aquifer. The district is not located in

an area which has been designated by the Commission as a critical area or which is known to be experiencing ground-water problems.

The wording on the metering of private wells is unnecessary. This is found on line 15 of page two of the bill. Normally, all wells pumping at a rate of 25,000 gallons per day are exempt from pumpage restrictions under the provisions of Chapter 52, Water Code. If this provision is to be retained, it should perhaps be reworded to specify that metering of agricultural and domestic wells shall not be required.

Because the amendments of H.B. 214 adopts Chapter 52, Water Code, by reference, and Chapter 52 adopts the creation provisions of Chapter 51, Water Code, by reference, (see §52.022, Water Code) it is unclear as to the requirement of a confirmation election. UWCDs created pursuant to Chapter 52 require confirmation elections. H.B. 214 should contain a clarification regarding a confirmation election, since it creates a new UWCD. The district is presently governed by a six member board of directors which are now appointed by the Commissioners Courts of Caldwell and Hays Counties. There are no board members for Travis County. Four of its directors are now required to be from Caldwell County which includes one each from Luling and Lockhart and two must be from Hays County including one from Kyle. This does not appear to be consistent with Chapter 52 provisions, which incorporate director provisions of Chapter 51.

^F
ENROLLED

H.B. No. 214

1 AN ACT

2 relating to the authority of the Plum Creek Conservation District
3 to regulate groundwater.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 2, Chapter 126, Acts of the 55th
6 Legislature, Regular Session, 1957, is amended to read as follows:

7 Sec. 2. POWERS OF DISTRICT [~~DISTRICTS--POWERS~~]. (a) The
8 District shall have and exercise and shall be vested with all the
9 rights, powers, privileges and authority granted water control and
10 improvement districts by Chapter 51, Water Code [~~3A7--Title--128--of~~
11 ~~the--Revised--Civil--Statutes--of--Texas,--1925,--and--all--amendments~~
12 ~~thereto-heretofore-or-hereafter-enacted~~], and all other laws of the
13 State of Texas relating to water control and improvement districts,
14 (all such laws being hereinafter referred to as "General Laws").
15 All such General Laws are hereby incorporated by this reference to
16 the same effect as if set out in full in this Act. To the extent
17 that the provisions of any such General Laws may be in conflict or
18 inconsistent with the provisions of this Act, the provisions of
19 this Act shall prevail. Without limitation of the generality of
20 the foregoing the District herein created shall be and it is hereby
21 empowered to control, conserve, protect, distribute and utilize the
22 storm and flood waters and unappropriated flow of Plum Creek and
23 its tributaries for all useful purposes permitted by law; also to
24 carry out flood prevention measures with respect to Plum Creek and

its tributaries to prevent or aid in preventing damage to the lands of the district and the soil and fertility thereof, to cooperate with all other districts, departments or agencies of the state government, or departments and agencies of the United States government, and to receive and accept technical and financial assistance therefrom in the accomplishment of said purposes. The said District is further authorized and empowered to purchase, construct, or in any other lawful manner to acquire, provide and develop all works, facilities and improvements necessary or useful in fulfilling the purposes of the District or any of them.

(b) Except as specifically provided by this Act, on approval of the qualified voters of the District at an election called and held for that purpose, the District may exercise the powers granted and shall exercise the duties imposed under Chapter 52, Water Code, for the preservation, conservation, protection, recharge, and prevention of waste and pollution of the underground water of the District, except in those areas of the District that were part of the Barton Springs-Edwards Aquifer Conservation District or the Edwards Underground Water District on January 1, 1989.

(c) The Commissioners Court of Caldwell County, on receiving a petition signed by at least 50 registered voters of the District, shall call and hold an election in the District to determine whether the District will assume the powers and exercise the duties provided by Chapter 52, Water Code. At the election, the ballots shall be printed to permit voting for or against the proposition: "The assumption by the Plum Creek Conservation District of the powers and duties of an underground water conservation district."

1 The Commissioners Court of Caldwell County shall canvass the votes,
2 and if a majority of the qualified voters of the District favor the
3 proposition, the District may assume the powers and shall exercise
4 the duties of an underground water conservation District under
5 Chapter 52, Water Code, except as specifically provided by
6 Subsection (d) of this section. If a majority of the qualified
7 voters of the District do not approve the proposition, another
8 election on that proposition may not be called by the Commissioners
9 Court of Caldwell County before the first anniversary of the most
10 recent election on that proposition. Except as provided by this
11 subsection, the Election Code applies to an election under this
12 subsection. Caldwell County shall pay the cost of any election
13 held under this subsection.

14 (d) If the District is authorized by the voters to assume
15 the powers and duties provided by Chapter 52, Water Code, the
16 District may annually levy taxes to pay the maintenance and
17 operating expenses in the area of the District for which authority
18 is granted under Subsection (b) of this section at a rate not to
19 exceed three cents on each \$100 of assessed valuation.

20 SECTION 2. The importance of this legislation and the
21 crowded condition of the calendars in both houses create an
22 emergency and an imperative public necessity that the
23 constitutional rule requiring bills to be read on three several
24 days in each house be suspended, and this rule is hereby suspended,
25 and that this Act take effect and be in force from and after its
26 passage, and it is so enacted.

H.B. No. 214

President of the Senate

Speaker of the House

I certify that H.B. No. 214 was passed by the House on May 5, 1989, by the following vote: Yeas 134, Nays 1.

Chief Clerk of the House

I certify that H.B. No. 214 was passed by the Senate on May 20, 1989, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor

President of the Senate

Speaker of the House

I certify that H.B. No. 214⁽¹⁾ was passed by the House

on May 5⁽²⁾, 1989, by the following vote:

Yeas 134⁽³⁾, Nays 1⁽⁴⁾

Chief Clerk of the House

I certify that H.B. No. 214⁽¹⁾ was passed by the Senate

on May 20⁽⁵⁾, 1989, by the following vote:

Yeas 31⁽⁶⁾, Nays 0⁽⁷⁾

Secretary of the Senate

APPROVED:

Date

Governor

**** Preparation: 'A;CT25;

H. B. No. 214

By Robinson

A BILL TO BE ENTITLED

AN ACT

relating to the authority of the Plum Creek Conservation District to regulate groundwater.

DEC 15 1988

1. Filed with the Chief Clerk.

JAN 25 1989

2. Read first time and Referred to Committee on

Natural Resources

APR 12 1989

3. Reported favorably ^(as amended) ~~(as substituted)~~ and sent to Printer at 9:30pm
APR 19 1989

APR 27 1989

4. Printed and distributed at 9:23am

APR 24 1989

5. Sent to Committee on Calendars at LEC 6:53pm

MAY 5 1989

6. Read second time as subs. ^(amended) passed to third reading ^(failed) by ^(Non-Record Vote) ~~(Record Vote of)~~ years, days, present, not voting).

7. Motion to reconsider and table the vote by which H.B. _____ was ordered engrossed prevailed (failed) by a (Non-Record Vote) (Record Vote of _____ years, _____ nays, and _____ present, not voting).

8. Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of _____ years, _____ nays, and _____ present, not voting.

MAY 5 1989

9. Read third time ^(amended); finally passed ^(failed) by ^(Non-Record Vote) ~~(Record Vote of)~~ 134 years, 1 nays, 0 present, not voting).

10. Caption ordered amended to conform to body of bill.

11. Motion to reconsider and table the vote by which H. B. _____ was finally passed prevailed (failed) by a (Non-Record Vote) (Record Vote of _____ years, _____ nays, and _____ present, not voting).

MAY 5 1989

12. Ordered Engrossed at 1:15 pm

MAY 6 1989

13. Engrossed.

MAY 6 1989

14. Returned to Chief Clerk at 2:40am

MAY 8 1989

15. Sent to Senate.

Betty Murray

Chief Clerk of the House

MAY 8 1989

16. Received from the House

MAY 9 1989

17. Read, referred to Committee on NATURAL RESOURCES

MAY 16 1989

18. Reported favorably

19. Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

20. Ordered not printed.

21. Regular order of business suspended by (a viva voce vote.) _____ years, _____ nays.)

22. To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of _____ yeas, _____ nays.

Read before Senate
23. Read second time _____ passed to third reading by:
(a viva voce vote.)
(_____ yeas, _____ nays.)

24. Caption ordered amended to conform to body of bill.

25. Senate and Constitutional 3-Day Rules suspended by vote of 30 yeas,
1 nays to place bill on third reading and final passage.

26. Read third time and passed by

(a viva voce vote.)
(31 yeas, 0 nays.)

Butt King
Secretary of the Senate

OTHER ACTION:

OTHER ACTION:

27. Returned to the House.

28. Received from the Senate ~~(with amendments)~~
(as substituted)

29. House (Concurred) (Refused to Concur) in Senate (Amendments) by a (Non-Record
(Substitute) Vote) (Record Vote of _____ yeas, _____ nays, _____ present,
not voting).

30. Conference Committee Ordered.

31. Conference Committee Report Adopted (Rejected) by a (Non-Record Vote) (Record
Vote of _____ yeas, _____ nays, and _____ present, not voting).

32. Ordered Enrolled at 10:56 am

89 MAY -6 AM 2:40

89 MAY -6 AM 2:40

May 20, 1989

MAY 20 1989

MAY 20 1989

89 APR 24 AM 9:29

NR

1214